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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,689	11/08/2001	Daniel Perlman	073442-4701	7076

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EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 03/12/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-7

# Office Action Summary

Application No.

10/010,689

Applicant(s)

PERLMAN, DANIEL

Examiner

Cephia D. Toomer

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1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-6, 10-21, 23-29, 35 is/are rejected.
- 7) ☐ Claim(s) 7-9, 22, 30-34, 36 and 37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 10, 25 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, there is no antecedent support in claim 1 for "the principal alcohol".

In claim 10, there is no antecedent support in claim 1 for "the composition".

Claim 25 is rejected because it is not clear what "sealingly attached" means.

Claim 35 is rejected because the claim depends upon two separate claims that are two distinct inventions.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-6, 11, 12, 14, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isopropyl Alcohol/Rubbing Alcohol offered by CVS.com.

CVS teaches 91% isopropyl alcohol (9% water) in 32 oz. Plastic bottles. See ads. CVS teaches the limitations of the claims other than the differences that are discussed below.

CVS fails to teach that the product is a combustible fire-starting assembly. However, CVS meets all the other limitations regarding the claims. Therefore, given that isopropyl alcohol is a flammable liquid it would be reasonable to expect that the alcohol in the plastic bottle would perform as a combustible fire-starting assembly.

CVS fails to teach the type of plastic used to construct the bottles; however, it would be reasonable to expect that the bottles are constructed of a polyolefin or polyester because polyolefins (polyethylene, and polypropylene) and terephthalates are the most commonly used plastics. It would also be reasonable to expect that the thickness of the walls would be within the claimed range given that the walls of the plastic bottles that are used to store the alcohol appear to have the claimed thickness, absent evidence to the contrary.

Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over CVS as applied to claims above, and further in view of Fitch (US 5,797,509).

CVS fails to teach that the bottle contains a cover film to prevent leakage. However, Fitch teaches that a closure package containing a cover film comprises a gas-

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impermeable layer, such as a foil and a heat activated adhesive layer (see abstract and col. 2, lines 8-18, 28-33; col. 5, lines 10-15).

It would have been obvious to one of ordinary skill in the art to have employed the closure package on the bottle of alcohol because Fitch teaches that the seal ensures freshness of the product and provides a tamper indicator for the package (see col. 5, lines 16-20).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 11, 12, 15, 25, 27, 28, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 62020594.

JP teaches a portable fuel briquette obtained by filling a polyethylene cup with an alcoholic gel fuel. The cup is sealed with a plastic film. JP teaches that the briquette burns without collapsing. See abstract in its entirety.

Accordingly, JP teaching all the material limitations of the claims, anticipates the claims.

Claims 3, 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 62020594.

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JP has been discussed above. JP fails to teach the amount of alcohol present in the fuel composition. However, it would have been obvious to one of ordinary skill in the art to have selected the claimed amounts because the amount of alcohol is a result effective variable. The length of time that would be required for the fuel to burn would determine the amount of alcohol.

JP also fails to teach the dimensions of the portable fuel. However, no unobviousness is seen in this difference because the size of the fuel container is a design choice and the size of the container is not patentable in and of itself.

Claims 17-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 62020594 as applied to claims above, and further in view of Tarpley (US 4,157,242).

JP has been discussed above. JP fails to teach the thickener used to form the alcoholic gel of its invention. However, Tarpley teaches this difference.

Tarpley teaches that liquid fuels such as alcohols are thickened with about 1-10 wt % of thickeners that include hydroxypropyl cellulose, carrageenan and other natural and synthetic gums (see col. 7, lines 25-40; col. 8, line 1-11).

It would have been obvious to one of ordinary skill in the art to have selected the claimed thickeners to thicken the alcoholic fuel of JP because Tarpley teaches that the claimed thickeners are used to thicken alcoholic fuels and that the thickeners are substantially completely combustible.

Claims 16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 62020594 as applied to claims above, and further in view of GB 2281915.

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JP has been discussed above. JP fails to teach the viscosity of his fuel composition or the thickener used to prepare the alcoholic gel fuel of its invention. However, GB teaches this difference.

GB teaches an alcoholic gel fuel that is thickened to a consistency of from 100 to 500 poise with fumed silica gel ( see abstract; page 3, lines 2-6).

It would have been obvious to one of ordinary skill in the art to have selected silica gel as the thickener and to have thickened the fuel composition to the claimed consistency because GB teaches that silica gel does not have any combustion products and that there "is no possibility of any component thereof reacting, during burning to form undesirable side products" (see page 7, lines 2-9).

Claims 7-9, 22, 30-34 and 36-37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach or suggest the combination of alcohols, the presence of water in the composition or the presence of a bittering agent; and the specific thickening agents. The prior art is silent with respect to the method of igniting charcoal, the amount of charcoal in the kit and the printed instructions.

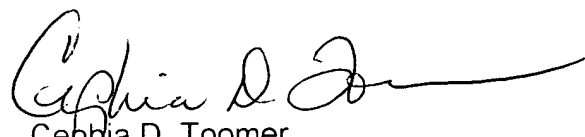
The prior art made of record but not relied upon is cited for teaching the general state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 703-308-2509. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Cephia D. Toomer  
Primary Examiner  
Art Unit 1714

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March 11, 2003